



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

Docket No. 220801-0167

RIN 0648-BK82

International Fisheries; Pacific Tuna Fisheries; 2022-2024 Commercial Fishing

Restrictions for Pacific Bluefin Tuna in the Eastern Pacific Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing regulations under the Tuna Conventions Act of 1950, as amended (TCA), to implement Inter-American Tropical Tuna Commission (IATTC) Resolution C-21-05 (“Measures for the Conservation and Management of Bluefin Tuna in the Eastern Pacific Ocean”). This final rule implements annual limits on commercial catch of Pacific bluefin tuna (*Thunnus orientalis*) in the eastern Pacific Ocean (EPO) for 2022-2024. This action is necessary to conserve Pacific bluefin tuna and for the United States (U.S.) to satisfy its obligations as a member of the IATTC.

DATES: This rule is effective [*Insert date 7 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of the draft Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal:

<http://www.regulations.gov>, docket NOAA-NMFS-2022-0011 or contact the Highly

Migratory Species Branch Chief, Lyle Enriquez, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802, or WCR.HMS@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Celia Barroso, NMFS, 562-432-1850,

Celia.Barroso@noaa.gov.

SUPPLEMENTARY INFORMATION: On March 4, 2022, NMFS published a proposed rule in the **Federal Register** to revise regulations at 50 CFR part 300, subpart C, for the commercial catch of Pacific bluefin tuna applicable to U.S. commercial fishing vessels in the IATTC Convention Area (Convention Area)¹ for 2022-2024 (87 FR 12409). The comment period was open for 30 days. NMFS received one public comment on the proposed rule, which is addressed later in this preamble.

This final rule is implemented under the authority of the TCA (16 U.S.C. 951 *et seq.*), which directs the Secretary of Commerce, after approval by the Secretary of State, to promulgate regulations as necessary to implement resolutions adopted by the IATTC. The Secretary of Commerce has delegated this authority to NMFS.

Additional background information on the IATTC, the international obligations of the United States as a member of the IATTC, and the need for regulations to manage the Pacific Bluefin tuna stock was included in the proposed rule and is not repeated in this rule.

New Regulations for Commercial Pacific Bluefin Tuna for 2022-2024

This rule establishes catch and trip limits for U.S. commercial vessels that catch Pacific bluefin tuna in the Convention Area and landing receipt submission deadlines for 2022-2024.

Catch Limits

The catch limit for the entire U.S. fleet will be 523 mt in 2022. The biennial limit in 2023-2024 will be 1,017 mt and not to exceed 720 mt in a single year; therefore, the

¹ The Convention Area is defined as waters of the EPO within the area bounded by the west coast of the Americas and by 50° N. latitude, 150° W. longitude, and 50° S. latitude.

2023 catch limit will be 720 mt, and the 2024 limit will be the lesser of the amount caught in 2023 subtracted from the biennial limit or 720 mt.

Over-harvest and under-harvest of the previous biennial catch limit will be accounted for in the subsequent biennial catch limit. Any over-harvest of the previous catch limit will be deducted from the subsequent catch limit, and up to 5 percent of any under-harvest of the previous catch limit will be added to the subsequent catch limit. Consequently, the 2023-2024 biennial limit will be adjusted if there is an over-harvest or under-harvest of the 2021-2022 biennial limit. The regulations refer to the 2021-2022 biennial limit established in Resolution C-21-05 for the purpose of clarifying its role in determining the 2023-2024 biennial limit.

NMFS will announce the 2023-2024 biennial limit in a notice published in the **Federal Register** in January or early February 2023. NMFS will announce the 2024 catch limit in a notice published in the **Federal Register** in January or early February 2024. These notices will also be posted on the NMFS website:

<https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status>.

Trip Limits and Landing Receipt Submission Deadlines

At the beginning of each period (semi-annual or quarter), the initial trip limit will be imposed unless at the start of the period, the threshold for the intermediate or lower trip limit is met. Similarly, if the intermediate trip limit has been imposed during the previous period, the intermediate trip limit will remain in effect unless at the start of the next period the threshold to reduce the trip limit to the lower trip limit has been met. In each year, if the annual limit is estimated to be met, the fishery will be closed.

2022:

The annual limit will be 523 mt with an initial trip limit of 20 mt. The trip limit will be reduced as follows:

- January - June: If cumulative catch is within 323 mt of the annual limit (*i.e.*, cumulative catch reaches 200 mt), the trip limit will be 15 mt. If cumulative catch is within 223 mt of the annual limit (*i.e.*, cumulative catch reaches 300 mt), the trip limit will be 3 mt.
- July-September: If cumulative catch is within 273 mt of the annual limit (*i.e.*, cumulative catch reaches 250 mt), the trip limit will be 15 mt. If cumulative catch is within 198 mt of the annual limit (*i.e.*, cumulative catch reaches 325 mt), the trip limit will be 3 mt.
- October-December: If cumulative catch is within 223 mt of the annual limit (*i.e.*, cumulative catch reaches 300 mt), the trip limit will be 15 mt. If cumulative catch is within 100 mt of the annual limit (*i.e.*, cumulative catch reaches 423 mt), the trip limit will be 3 mt.

2023:

The annual limit will be 720 mt with an initial trip limit of 30 mt. The trip limit will be reduced as follows:

- January - June: If cumulative catch is within 320 mt of the annual limit (*i.e.*, cumulative catch reaches 400 mt), the trip limit will be 20 mt. If cumulative catch is within 220 mt of the annual limit (*i.e.*, cumulative catch reaches 500 mt), the trip limit will be 3 mt.
- July - September: If cumulative catch is within 290 mt of the annual limit (*i.e.*, cumulative catch reaches 430 mt), the trip limit will be 20 mt. If cumulative catch is within 200 mt of the annual limit (*i.e.*, cumulative catch reaches 520 mt), the trip limit will be 3 mt.
- October - December: If cumulative catch is within 250 mt of the annual limit (*i.e.*, cumulative catch reaches 470 mt), the trip limit will be 20 mt. If cumulative catch

is within 100 mt of the annual limit (*i.e.*, cumulative catch reaches 620 mt), the trip limit will be 3 mt.

2024:

If the annual limit is between 525 and 720 mt, the initial trip limit will 30 mt, and the trip limit will be reduced as follows:

- January - June: If cumulative catch is within 320 mt of the annual limit, the trip limit will be 20 mt. If cumulative catch is within 220 mt of the annual limit, the trip limit will be 10 mt. If cumulative catch is within 150 mt of the annual limit, the trip limit will be 3 mt.
- July - September: If cumulative catch is within 300 mt of the annual limit, the trip limit will be 20 mt. If cumulative catch is within 200 mt of the annual limit, the trip limit will be 10 mt. If cumulative catch is within 140 mt of the annual limit, the trip limit will be 3 mt.
- October - December: If cumulative catch is within 250 mt of the annual limit, the trip limit will be 20 mt. If cumulative catch is within 100 mt of the annual limit, the trip limit will be 3 mt.

If the annual limit is between 400 mt and 524 mt, the initial trip limit will be 20 mt, and the trip limit will be reduced as follows:

- January - June: If cumulative catch is within 300 mt of the annual limit, the trip limit will be 15 mt. If cumulative catch is within 200 mt of the annual limit, the trip limit will be 3 mt.
- July-September: If cumulative catch is within 250 mt of the annual limit, the trip limit will be 15 mt. If cumulative catch is within 150 mt of the annual limit, the trip limit will be 3 mt.

- October-December: If cumulative catch is within 200 mt of the annual limit, the trip limit will be 15 mt. If catch is within 100 mt of the annual limit, the trip limit will be 3 mt.

If the annual limit is between 297-399 mt, the initial trip limit will 15 mt, and the trip limit will be reduced as follows:

- January-June: If cumulative catch is within 220 mt of the annual limit, the trip limit will be 3 mt.
- July-September: If cumulative catch is within 200 mt of the annual limit, the trip limit will be 3 mt.
- October-December: If cumulative catch is within 100 mt of the annual limit, the trip limit will be 3 mt.

If the annual limit is 296 mt or less, the trip limit will be 5 mt for the entire year.

Under California law and regulations, electronic landing receipts (*i.e.*, e-tickets) are required for landings in California and are required to be submitted to the California Department of Fish and Wildlife within three business days (*see* California Fish and Game Code section 8046 and 14 California Code of Regulations § 197). Under this final rule, e-tickets must be submitted within 24 hours if any Pacific bluefin tuna is included in a landing into California. This accelerated submission deadline is required in order to better monitor catch limits.

NMFS will estimate when the overall catch is expected to reach the thresholds to reduce the trip limit (*e.g.*, from 30 mt to 20 mt, from 20 mt to 15 mt, or from 15 mt to 2 mt) or the annual limit based on available fishery information, such as landing receipts. NMFS will then make decisions on in-season actions based on those estimates. NMFS encourages owners or operators of purse seine vessels to call NMFS at 562-432-1850 in advance of landing with an estimate of how much Pacific bluefin tuna was caught on each trip.

In-season Action Announcements

In-season actions to reduce trip limits imposed by NMFS will be effective upon the time and date published in a notice in the **Federal Register**. In-season actions will also be announced by posting on the NOAA Fisheries website (<https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status>). This represents a change from the in-season action procedures described in the proposed rule, which included notice by a United States Coast Guard Notice to Mariners broadcast three times per day for 4 days; the proposed procedures would also have made the in-season actions effective on the date specified in the actual notice by broadcast and website posting or at the time specified in the **Federal Register**, whichever came first. After the public comment period for the proposed rule closed, however, the United States Coast Guard notified NMFS WCR that they would not provide a Broadcast Notice to Mariners, indicating that using it for in-season actions for Pacific bluefin tuna is inconsistent with its use in accordance with regulations at 33 CFR 72.01. Taking in-season actions quickly is essential because the Pacific bluefin tuna fishery may catch much of the catch limit in a short period; therefore, NMFS intends to replace notice of in-season actions by Broadcast Notice to Mariners with notice by emails to the affected public. Because this was not contemplated in the proposed rule, NMFS intends to publish another proposed rule that would propose adding notice of in-season action by email, such that the procedures would require in-season actions to be posted on the NMFS website, sent by e-mails to the affected public, and published in the **Federal Register** as soon as practicable (RIN 0648-BL59). In the meantime, to ensure NMFS is able to take in-season actions as necessary, this rule is finalizing the other components of the proposed in-season action procedures, namely, notice by publication in the **Federal Register** and by posting on the NMFS website.

In 2022-2024, if NMFS determines that cumulative catch is expected to meet any of the thresholds described previously (based on landing receipts, or other available information) during the applicable months, an intermediate or lower trip limit will be imposed by NMFS using the in-season action procedures described in the previous paragraph.

When NMFS determines that the annual catch limit is expected to be reached in each year (based on landings receipts or other available fishery information), U.S. commercial fishing vessels will be prohibited from targeting, retaining, transshipping or landing Pacific bluefin tuna captured in the Convention Area for the remainder of the calendar year (*i.e.*, fishery closure). NMFS will publish a notice in the **Federal Register** and on the NMFS website announcing that targeting, retaining, transshipping or landing of Pacific bluefin tuna captured in the Convention Area will be prohibited on an effective time and date specified in the **Federal Register** Notice through the end of that calendar year. Upon that effective date, a commercial fishing vessel of the U.S. cannot not be used to target, retain on board, transship, or land Pacific bluefin tuna captured in the Convention Area. However, any Pacific bluefin tuna already on board a fishing vessel on the effective date can be retained on board, transshipped, and/or landed within 14 days of the effective date, to the extent authorized by applicable laws and regulations. In the event a trip limit was reduced early or the fishery was closed due to an overestimation of catch, NMFS will reverse the prior in-season action to increase the trip limit or re-open the fishery after landing receipts have been received and the landed catch quantity confirmed. NMFS will announce these actions in the **Federal Register** and on the NMFS website.

Catch Reporting

NMFS will continue to provide updates on Pacific bluefin tuna catches in the Convention Area to the public via the NMFS website:

<https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status>. NMFS will update the NMFS website provided the updates do not disclose confidential information. These updates are intended to help participants in the U.S. commercial fishery plan for reduced trip limits and attainment of the annual limits.

Comments and Response

NMFS received one public comment on the proposed rule. The comment was supportive of actions to limit catch of Pacific bluefin tuna, and suggested further limits than agreed to in Resolution C-21-05. The U.S. agreed to the limits imposed in this final rule, which are part of an internationally-agreed rebuilding plan that is effectively rebuilding Pacific bluefin tuna per the 2020 stock assessment. Consequently, NMFS intends to implement catch limits consistent with the IATTC Resolution.

Classification

The NMFS Assistant Administrator has determined that this rule is consistent with the Tuna Conventions Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Good Cause to Shorten Delay in Effective Date

Under section 553(d) of the Administrative Procedure Act, an agency must delay the effective date of regulations for 30 days after publication, unless the agency finds good cause to make the regulations effective sooner. The NOAA Assistant Administrator for Fisheries has determined that good cause exists to make this rule effective 7 days after publication.

A stock assessment completed in July 2020 by the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean showed that Pacific bluefin tuna is overfished and subject to overfishing when compared to commonly

used reference points; NMFS subsequently concurred with the assessment (86 FR 9910, February 17, 2021). The main objective of IATTC Resolution C-21-05 is to reduce overfishing and aid in rebuilding of the stock by setting limits on catch in the Convention Area during 2022-2024. As a member of the IATTC, the United States is legally bound to implement that Resolution.

In recent years, Pacific bluefin tuna have remained in significant numbers in waters off of southern California, and U.S. commercial vessels currently have a greater opportunity to fish for Pacific bluefin tuna off of the U.S West Coast than in previous years. If the trip limits implemented by this rule were subject to the 30-day delay in effectiveness, and taking into account that a single trip could catch up to 75 mt (nearly four times the initial 20-mt trip limit), there is potential for a derby-style fishery that would result in exceeding the 523-mt catch limit for 2022 before this rule goes into effect. Delaying the effective date of this rule for a full 30 days after publication would therefore be contrary to the public's interest in ensuring conservation of Pacific bluefin tuna stock in the EPO. Such a delay would also be contrary to the public's interest in ensuring the United States is in compliance with its international obligations to implement the catch limits in IATTC Resolution C-21-05.

Although justification exists to make the rule effective immediately upon publication, NMFS is implementing a 7-day delay in effectiveness to provide sufficient time for currently-operating vessels to comply with the new regulations. Seven days is sufficient because vessels that target Pacific bluefin tuna in large quantities (*i.e.*, purse seine vessels) typically complete their fishing trips within 1 to 2 days. Therefore, to conserve Pacific bluefin tuna, which are overfished, and to remain in compliance with IATTC Resolution C-21-05, NMFS has determined that making these measures effective 7 days after publication in the **Federal Register** is in the public's interest. As soon as the

rule is published, additional notice will be given to fishery participants through an e-mail sent to the IATTC distribution list.

Economic Analysis

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that, for purposes of the Regulatory Flexibility Act, this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. The changes to in-season action procedures from proposed to final rule, while considering a proposed rule currently in development to address the changes to in-season action procedures, are not expected to result in a change in the certification published in the proposed rule.

Paperwork Reduction Act

This rule does not contain a change to a collection of information requirement for purposes of the Paperwork Reduction Act of 1995 (PRA). The existing collection of information requirements would continue to apply under the following Office of Management and Budget (OMB) Control Number(s): 0648-0778, Reporting and Notification Requirements in West Coast Pacific Bluefin Tuna Fishery.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: August 1, 2022

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.*

2. In § 300.24, revise paragraph (u) to read as follows:

§ 300.24 Prohibitions.

* * * * *

(u) Use a United States commercial fishing vessel in the Convention Area to target, retain on board, transship, or land Pacific bluefin tuna in contravention of § 300.25(g)(2) through (6).

* * * * *

3. In § 300.25, revise paragraph (g) to read as follows:

§ 300.25 Fisheries management.

* * * * *

(g) *Pacific bluefin tuna (Thunnus orientalis) commercial catch limits in the eastern Pacific Ocean for 2022-2024—(1) Biennial catch limit for 2021-2022.* The biennial catch limit for 2021-2022 is 739 metric tons.

(2) *Biennial catch limit for 2023-2024.* The biennial catch limit for 2023-2024 is either:

(i) 1,017 metric tons increased by the amount, not to exceed 37 metric tons, of Pacific bluefin tuna catch remaining from the 2021-2022 U.S. commercial catch limit; or,

(ii) 1,017 metric tons reduced by the amount of Pacific bluefin tuna caught in excess of the 2021-2022 U.S. commercial biennial catch limit.

(3) *Annual catch and trip limits for 2022.* For the calendar year 2022, all commercial fishing vessels of the United States combined may capture, retain, transship, or land no more than 523 metric tons. A 20-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates cumulative catch will be...	Then the trip limit will be...
(i) January through June	200 mt	15 mt
	300 mt	3 mt
(ii) July through September	250 mt	15 mt
	325 mt	3 mt
(iii) October through December	300 mt	15 mt
	423 mt	3 mt

(4) *Annual catch and trip limits for 2023.* For the calendar year 2023, all commercial fishing vessels of the United States combined may capture, retain, transship, or land no more than 720 metric tons. A 30-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates cumulative catch will be...	Then the trip limit will be...
(i) January through June	400 mt	20 mt
	500 mt	3 mt
(ii) July through September	430 mt	20 mt
	520 mt	3 mt
(iii) October through December	470 mt	20 mt
	620 mt	3 mt

(5) *Annual catch and trip limits for 2024.* (i) If the 2024 catch limit is between 525 and 720 metric tons, a 30-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates the cumulative catch is within...	Then the trip limit will be...
(A) January through June	320 mt of the annual catch limit	20 mt
	220 mt of the annual catch limit	10 mt
	150 mt of the annual catch limit	3 mt
(B) July through September	300 mt of the annual catch limit	20 mt
	200 mt of the annual catch limit	10 mt
	140 mt of the annual catch limit	3 mt
(C) October through December	250 mt of the annual catch limit	20 mt
	100 mt of the annual catch limit	3 mt

(ii) If the 2024 catch limit is between 400 and 524 metric tons, a 20-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates the cumulative catch is within...	Then the trip limit will be...
(A) January through June	300 mt of the annual catch limit	15 mt
	200 mt of the annual catch limit	3 mt
(B) July through September	250 mt of the annual catch limit	15 mt
	150 mt of the annual catch limit	3 mt
(C) October through December	200 mt of the annual catch limit	15 mt
	100 mt of the annual catch limit	3 mt

(iii) If the 2024 catch limit is between 297 and 399 metric tons, a 15-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates the cumulative catch is within...	Then the trip limit will be...
(A) January through June	220 mt of the annual catch limit	3 mt
(B) July through September	200 mt of the annual catch limit	3 mt
(C) October through December	100 mt of the annual catch limit	3 mt

(iv) If the 2024 catch limit is 296 metric tons or less, the trip limit will be 5 metric tons for the entire calendar year.

(6) *Closure of the fishery.* After NMFS determines that the annual catch limits under paragraphs (g)(3) through (5) of this section are expected to be reached, NMFS will close the fishery effective upon the date provided in the notice in accordance with paragraph (g)(7) of this section. Upon the effective date in the notice, targeting, retaining on board, transshipping or landing Pacific bluefin tuna in the Convention Area shall be prohibited through the end of the calendar year, with the exception that any Pacific bluefin tuna already on board a fishing vessel on the effective date of the notice may be retained on board, transshipped, and/or landed within 14 days after the effective date published in the fishing closure notice, to the extent authorized by applicable laws and regulations.

(7) *Announcement and effective dates of in-season actions.* In-season actions taken under paragraphs (g)(2) through (6) of this section will be by notice in the **Federal Register**. The action will also be posted on the National Marine Fisheries Service West Coast Region website (<https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status>). In-season actions will be effective from the date and time specified in the **Federal Register** Notice.

(8) *Reversal of in-season actions.* If an in-season action taken under paragraphs (g)(2) through (6) of this section is based on overestimate of actual catch, NMFS will reverse that action in the timeliest possible manner, provided NMFS finds that reversing that action is consistent with the management objectives for the affected species. The fishery will be subject to the change in trip limit or reopened effective on the date provided in the notice in accordance with paragraph (g)(7) of this section.

(9) *State of California fish landing receipts.* If landing Pacific bluefin tuna into the State of California, fish landing receipts must be submitted within 24 hours to the California Department of Fish and Wildlife in accordance with the requirements of applicable State regulations.

[FR Doc. 2022-16824 Filed: 8/4/2022 8:45 am; Publication Date: 8/5/2022]